

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-255V

Filed: August 26, 2016

UNPUBLISHED

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CHERYL BOURGERIE,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Jeffrey S. Pop, Jeffrey S. Pop, Attorney at Law, Beverly Hills, CA, for petitioner.*

*Kelly Heidrich, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On February 23, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that her September 23, 2014 influenza (“flu”) vaccination caused her to suffer Shoulder Injury Related to Vaccine Administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 25, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent

has concluded that petitioner’s alleged injury is consistent with shoulder injury related to vaccine administration (“SIRVA”), and that it was caused

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

in fact by the flu vaccine she received on or about September 23, 2014. [Respondent] did not identify any other causes for petitioner's SIRVA, and records show that she suffered the sequela of her injury for more than six months.

*Id.* at 2-3. Respondent further agrees that based on the medical records "petitioner has met the statutory requirements for entitlement to compensation" and "satisfied all legal prerequisites for compensation under the Act." *Id.* at 3.

**In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master